

**FREEDOM OF INFORMATION COMMISSION  
STATEMENT ON RAISED BILL 5616,  
AN ACT CONCERNING NOTICES AND PUBLIC INFORMATION**

**March 18, 2016**

The Freedom of Information (“FOI”) Commission **opposes** **Section 1** of Raised Bill 5616.

**Section 1(a)**

Section 1(a) of the bill prohibits public agencies from disclosing the month and day of any individual’s date of birth on any list prepared under Title 9 of the general statutes which is provided pursuant to a request under the FOI Act. Dates of birth are necessary to determine voter eligibility and to guard against voter fraud. A date of birth is also an important identifier when more than one person with the same name (Example: John Smith) appears on the voter lists.

In addition, the bill fails to address the process by which a member of the public could inspect the records and at what cost. Generally, under current law, there is no fee for inspecting public records. Under the proposal, if a request is made to inspect, does the public agency have to first make a copy of the record, redact the information, and then make another copy? Will this involve a copying fee? This bill would substantially change the public’s ability to inspect voter records – a right which has been available to them for decades. The FOI Commission asks the GAE Committee to carefully consider the consequences of this proposed change, which would diminish electoral transparency.

**Section 1(b)**

Section 1(b) of the bill proposes to preclude any person who receives a list prepared under Title 9 of the general statutes pursuant to the FOI Act from further disclosing information contained on the list, including publishing such information on the Internet. This proposal violates the First Amendment. The government must not be in the position of dictating to the public what can and cannot be done with public records. Moreover, the provision is completely unenforceable. Aside from the fact that it is unconstitutional, what would be the result if a person nevertheless discloses a voter list? As written, nothing. The FOI Commission strongly urges the Committee to reject Section 1 of Raised Bill 5616 in its entirety.

**Section 2**

We do not oppose this section in principle, and believe it will ultimately lead to greater transparency, but we want to note for the Committee the bill’s impact and some discrepancies contained in it as drafted. Section 2 of Raised Bill 5616 addresses the requirements to file and post public agency meeting schedules, agendas, notices, and minutes, that are contained in the FOI Act.

Under current law, a state agency must: (a) create meeting minutes and post such minutes on the agency’s website; (b) file with the Secretary of the State (SOTS) a schedule of its regular meetings, and post such schedule on the agency’s website; (c) file the agendas of its regular meetings in its own office and with the SOTS, and post its agendas on its own website; (d) post notice of its special meetings on its own website and file with the SOTS such notices; and (e) file

with the SOTS minutes of emergency special meetings.

Under current law, the SOTS must: (a) post the regular meeting agendas of state agencies on its website; and (b) post notice of state agency special meetings on its website.

Under current law, municipalities and multi-town regional agencies have their own posting and filing requirements, which involve the town and city clerks, but not the SOTS.

Section 2 of Raised Bill 5616, adds the following four requirements for state agencies: (1) post meeting minutes on a website designated by the SOTS; (2) post the schedule of regular meetings on a website designated by the SOTS; (3) post meeting agendas on a website designated by the SOTS; and (4) post special meeting notices on a website designated by the SOTS.

Section 2 of Raised Bill 5616, removes both posting requirements from the SOTS.

Section 2 of Raised Bill 5616, adds a requirement that multi-town regional agencies must post their schedule of regular meetings on a website designated by the SOTS.

The FOI Commission notes that Section 2 adds posting requirements for certain agencies and also shifts posting requirements from the SOTS to certain public agencies. As the agency charged with enforcing the FOI Act, including Conn. Gen. Stat. §1-225, which is at issue in this bill, it is unclear how these changes will be interpreted. For example, should the website designated by the SOTS falter or fail, would the SOTS be responsible for the violation? Would the state agency?

The FOI Commission again asks that the Committee carefully review the proposed changes in Section 2 of the bill. We would be happy to assist the members of the Committee if the Committee chooses to make changes to the bill.

### **Section 3**

The Commission takes no position with respect to this section of the bill.

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